

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 4, 2011

**SENATE BILL**

**No. 727**

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**Introduced by Senator Berryhill**

(Principal coauthor: Assembly Member Grove)

**(Coauthor: Senator Gaines)**

(Coauthor: Assembly Member Harkey)

February 18, 2011

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An act to add Section 35169 to the Education Code, to amend Section 63036 of the Government Code, and to amend Sections 1720, 1720.4, 1771, 1772, and 1777.5 of, to add Sections 1771.1 and 1771.15 to, and to repeal Section 1720.3 of, the Labor Code, relating to public works.

LEGISLATIVE COUNSEL'S DIGEST

SB 727, as amended, Berryhill. Public works: prevailing wages.

Existing law defines the term “public works” for purposes of requirements regarding the payment of prevailing wages, the regulation of working hours, and the securing of workers’ compensation for public works projects. Existing law further requires that, except as specified, not less than the general prevailing rate of per diem wages be paid to workers employed on public works projects, and imposes misdemeanor penalties for a violation of this requirement. Existing law exempts certain projects from the prevailing wage requirements, including public works projects of less than \$1,000. *Existing law requires that prevailing wages be paid on contracts let for maintenance work.*

This bill would specify that workers must be employed directly at the site of the work to be deemed employed upon public work. The bill would exempt from the prevailing wage requirements public projects of less than \$100,000. The bill would also exempt from the prevailing

wage requirements the governing board of a school district with regard to the construction, reconstruction, or rehabilitation of school facilities, any fabrication or prefabrication work done at a permanent offsite ~~facilities~~ *facility* of a contractor, a public work project of a local agency that adopts a resolution or ordinance, as specified, workers employed on a hospital seismic retrofitting project. The bill would also exempt from the definition of “public works,” for purposes of the prevailing wage requirements, work performed during the design and preconstruction phases of construction, including inspection and land surveying work and would delete provisions of existing law specifying that “public works” includes the hauling of refuse from a public works site to an outside disposal location. ~~This bill would delete from existing law exclusions from the requirements of public works and prevailing wage laws for work done on certain private development projects, affordable housing units for low- or moderate-income persons, privately-owned residential projects, qualified residential rental projects, single-family residential projects, and low-income housing projects. This bill would revise the definitions of “public works” and “paid for in whole or in part out of public funds,” as provided. This bill would exclude from the prevailing wage requirements contracts for which the state or any political subdivision pays a cumulative amount of less than 50% of the total payment under the contract directly to or on behalf of the contractor, subcontractor, or developer executing the contract, as provided, and would revise certain existing exclusions, as specified. This bill would also remove the prevailing wage requirements for contracts let for maintenance work.~~

Existing law, the Bergeson-Peace Infrastructure and Economic Development Bank Act, establishes the California Infrastructure and Economic Development Bank in the Trade and Commerce Agency, which requires public works financed by the bank to comply with those laws relating to payment of prevailing wages.

This bill would remove the requirement that public works financed under that act comply with the prevailing wage requirements.

Existing law, until January 1, ~~2012~~ 2017, specifies that the prevailing wage requirement does not apply to work performed on or after January 1, 2002, by a volunteer, a volunteer coordinator, or a member of the California Conservation Corps or of a certified community conservation corps, as defined.

This bill would delete the January 1, ~~2012~~ 2017, date upon which this provision is repealed thus extending this provision indefinitely.

Existing law imposes specified requirements on contracts of \$30,000 or more of general contractors or specialty contractors with regard to the use of apprentices or journeymen on public works projects.

This bill would instead impose these requirements on contracts of \$100,000 or more.

Because this bill would expand the application of the prevailing wage requirements, the violation of which ~~are~~ *is* a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 35169 is added to the Education Code,  
2 to read:

3 35169. The governing board of a school district is not required  
4 to comply with the wage requirements of Section 1771 of the Labor  
5 Code, or the successor to that section or any other requirement for  
6 the payment of prevailing wages, with regard to the construction,  
7 reconstruction, or rehabilitation of school facilities, except to the  
8 extent required by federal law.

9 SEC. 2. Section 63036 of the Government Code is amended  
10 to read:

11 63036. It is the intent of the Legislature that the activities of  
12 the bank be fully coordinated with any future legislative plan  
13 involving growth management strategies designed to protect  
14 California's land resource, and ensure its preservation and use it  
15 in ways which are economically and socially desirable.

16 SEC. 3. Section 1720 of the Labor Code is amended to read:

17 1720. (a) As used in this chapter, "public works" means:

18 (1) Construction, alteration, demolition, installation, or repair  
19 work done ~~under in the execution of a contract and that is~~ paid for  
20 in whole or in part out of public funds, except work done directly  
21 by any public utility company pursuant to *an* order of the Public  
22 Utilities Commission or other public authority. For purposes of

1 this paragraph, “construction”—~~does~~ *shall* not include work  
2 performed ~~during the~~ *in the execution of a contract* for design and  
3 preconstruction phases of construction, including, but not limited  
4 to, inspection and land surveying work.

5 (2) ~~Work done~~ *Construction, alteration, demolition, installation,*  
6 *or repair work done in the execution of a contract and paid for in*  
7 *whole or in part out of public funds* for irrigation, utility,  
8 reclamation, and improvement districts, and other districts of this  
9 type. “Public work” does not include the operation of the irrigation  
10 or drainage system of any irrigation or reclamation district, except  
11 as used in Section 1778 relating to retaining wages.

12 (3) ~~Street;~~ *Construction, alteration, demolition, installation, or*  
13 *repair work done in the execution of a contract that is paid for in*  
14 *whole or in part out of public funds for street, sewer, or other*  
15 *improvement work done under the direction and supervision or*  
16 *by the authority of any officer or public body of the state, or of*  
17 *any political subdivision or district thereof, whether the political*  
18 *subdivision or district operates under a freeholder’s charter or not.*

19 (4) The laying of carpet done under a building lease-maintenance  
20 contract and paid for out of public funds.

21 (5) The laying of carpet in a public building done ~~under~~ *in the*  
22 *execution of a contract* and paid for in whole or in part out of public  
23 funds.

24 (6) Public transportation demonstration projects authorized  
25 pursuant to Section 143 of the Streets and Highways Code.

26 (b) For purposes of this section, ~~“paid for section:~~

27 (1) *“Paid for in whole or in part out of public funds”* means all  
28 of the following:

29 (1)

30 (A) The payment of money or the equivalent of money by the  
31 state or political subdivision directly to or on behalf of the ~~public~~  
32 ~~works~~ contractor, subcontractor, or developer *executing the*  
33 *contract.*

34 (2)

35 (B) Performance of construction work by the state or political  
36 subdivision in execution of the project.

37 (3)

38 (C) Transfer by the state or political subdivision of an asset of  
39 value for less than fair market price.

40 (4)

1 (D) Fees, costs, rents, insurance or bond premiums, loans,  
2 interest rates, or other obligations that would normally be required  
3 in the execution of the contract, that are paid, reduced, charged at  
4 less than fair market value, waived, or forgiven by the state or  
5 political subdivision.

6 ~~(5)~~

7 (E) Money loaned by the state or political subdivision that is to  
8 be repaid on a contingent basis.

9 ~~(6)~~

10 (F) Credits that are applied by the state or political subdivision  
11 against repayment obligations to the state or political subdivision.

12 (2) *“Paid for in whole or in part out of public funds” does not*  
13 *include tax credits provided pursuant to Section 17053.49 or 23649*  
14 *of the Revenue and Taxation Code.*

15 (c) *This section shall not apply to contracts for which the state*  
16 *or any political subdivision pays a cumulative amount of less than*  
17 *50 percent of the total payment under the contract directly to or*  
18 *on behalf of the contractor, subcontractor, or developer executing*  
19 *the contract. If a change order or other contract amendment*  
20 *increases the cumulative amount to 50 percent or more of the total*  
21 *payment, this section shall apply to work performed under that*  
22 *contract, as amended by the change order or other contract*  
23 *amendment beginning on the date that the change order or other*  
24 *contract amendment is effective. If a change order or other contract*  
25 *amendment decreases the cumulative amount to less than 50*  
26 *percent of the total payment, this section shall not apply to work*  
27 *performed under that contract, as amended by the change order*  
28 *or other contract amendment beginning on the date that the change*  
29 *order or other contract amendment is effective.*

30 (d) *Notwithstanding subdivision (b):*

31 (1) *The execution of a contract for construction, alteration,*  
32 *demolition, installation, or repair work on a private residential*  
33 *project built on private property is not subject to the requirements*  
34 *of this chapter unless the contract is funded in whole or in part*  
35 *out of public funds.*

36 (2) *The execution of a contract for construction, alteration,*  
37 *demolition, installation, or repair work on a private development*  
38 *project is not subject to the requirements of this chapter if the work*  
39 *is required by the state or a political subdivision as a condition*

1 of regulatory approval of the project, unless the contract is funded  
2 in whole or in part out of public funds.

3 (3) The construction or rehabilitation of affordable housing  
4 units for low- or moderate-income persons pursuant to paragraph  
5 (5) or (7) of subdivision (e) of Section 33334.2 of the Health and  
6 Safety Code that is paid for solely with moneys from a Low and  
7 Moderate Income Housing Fund established pursuant to Section  
8 33334.3 of the Health and Safety Code or that is paid for by a  
9 combination of private funds and funds available pursuant to  
10 Section 33334.2 or 33334.3 of the Health and Safety Code does  
11 not constitute a project that is paid for in whole or in part out of  
12 public funds.

13 (4) Unless otherwise required by a public funding program,  
14 construction, alteration, demolition, installation, or repair work  
15 done in the execution of a contract for privately owned residential  
16 projects is not subject to the requirements of this chapter if one or  
17 more of the following conditions are met:

18 (A) The project is a self-help housing project in which no fewer  
19 than 500 hours of construction work associated with the homes  
20 are to be performed by the homebuyers.

21 (B) The project is associated with a facility operated on a  
22 not-for-profit basis as temporary or transitional housing for  
23 homeless persons with a total project cost of less than one hundred  
24 thousand dollars (\$100,000).

25 (C) Assistance is provided to a household as either mortgage  
26 assistance, downpayment assistance, or for the rehabilitation of  
27 a single-family home.

28 (D) The project is associated with a facility developed by a  
29 nonprofit organization to be operated on a not-for-profit basis to  
30 provide emergency or transitional shelter and ancillary services  
31 and assistance to homeless adults and children. The nonprofit  
32 organization operating the project shall provide, at no profit, not  
33 less than 50 percent of the total contract cost from nonpublic  
34 sources, excluding real property that is transferred or leased. Total  
35 contract cost includes the value of donated labor, materials, and  
36 architectural and engineering services.

37 (E) The public participation in the project that would otherwise  
38 meet the criteria of subdivision (b) is public funding in the form  
39 of below-market interest rate loans for a project in which  
40 occupancy of at least 40 percent of the units is restricted for at

1 *least 20 years, by deed or regulatory agreement, to individuals or*  
2 *families earning no more than 80 percent of the area median*  
3 *income.*

4 *(e) Notwithstanding any provision of this section to the contrary,*  
5 *the following projects shall not, solely by reason of this section,*  
6 *be subject to the requirements of this chapter:*

7 *(1) Qualified residential rental projects, as defined by Section*  
8 *142(d) of the Internal Revenue Code, financed in whole or in part*  
9 *through the issuance of bonds that receive allocation of a portion*  
10 *of the state ceiling pursuant to Chapter 11.8 (commencing with*  
11 *Section 8869.80) of Division 1 of Title 2 of the Government Code.*

12 *(2) Single-family residential projects financed in whole or in*  
13 *part through the issuance of qualified mortgage revenue bonds or*  
14 *qualified veterans' mortgage bonds, as defined by Section 143 of*  
15 *the Internal Revenue Code, or with mortgage credit certificates*  
16 *under a qualified mortgage credit certificate program, as defined*  
17 *by Section 25 of the Internal Revenue Code, that receive allocation*  
18 *of a portion of the state ceiling pursuant to Chapter 11.8*  
19 *(commencing with Section 8869.80) of Division 1 of Title 2 of the*  
20 *Government Code.*

21 *(3) Low-income housing projects that are allocated federal or*  
22 *state low-income housing tax credits pursuant to Section 42 of the*  
23 *Internal Revenue Code, Chapter 3.6 (commencing with Section*  
24 *50199.4) of Part 1 of Division 31 of the Health and Safety Code,*  
25 *or Section 12206, 17058, or 23610.5 of the Revenue and Taxation*  
26 *Code.*

27 *(f) If a statute, other than this section, or a regulation, other*  
28 *than a regulation adopted pursuant to this section, or an ordinance*  
29 *or a contract applies this chapter to a project, the exclusions set*  
30 *forth in subdivision (d) do not apply to that project.*

31 *(g) For purposes of this section, references to the Internal*  
32 *Revenue Code mean the Internal Revenue Code of 1986, as*  
33 *amended, and include the corresponding predecessor sections of*  
34 *the Internal Revenue Code of 1954, as amended.*

35 *(h) The amendments made to this section by either Chapter 938*  
36 *of the Statutes of 2001 or the act adding this subdivision shall not*  
37 *be construed to preempt local ordinances concerning wage*  
38 *requirements for construction, alteration, demolition, installation,*  
39 *repair, or maintenance work on housing projects.*

40 SEC. 4. Section 1720.3 of the Labor Code is repealed.

1 SEC. 5.—Section 1720.4 of the Labor Code is amended to read:  
2 1720.4. (a) This chapter shall not apply to any of the following  
3 work:

4 (1) Any work performed by a volunteer. For purposes of this  
5 section, “volunteer” means an individual who performs work for  
6 civic, charitable, or humanitarian reasons for a public agency or  
7 corporation qualified under Section 501(c)(3) of the Internal  
8 Revenue Code as a tax-exempt organization, without promise,  
9 expectation, or receipt of any compensation for work performed.

10 (A) An individual shall be considered a volunteer only when  
11 his or her services are offered freely and without pressure and  
12 coercion, direct or implied, from an employer.

13 (B) An individual may receive reasonable meals, lodging,  
14 transportation, and incidental expenses or nominal nonmonetary  
15 awards without losing volunteer status if, in the entire context of  
16 the situation, those benefits and payments are not a substitute form  
17 of compensation for work performed.

18 (C) An individual shall not be considered a volunteer if the  
19 person is otherwise employed for compensation at any time (i) in  
20 the construction, alteration, demolition, installation, repair, or  
21 maintenance work on the same project, or (ii) by a contractor, other  
22 than a corporation qualified under Section 501(c)(3) of the Internal  
23 Revenue Code as a tax-exempt organization, that is receiving  
24 payment to perform construction, alteration, demolition,  
25 installation, repair, or maintenance work on the same project.

26 (2) Any work performed by a volunteer coordinator. For  
27 purposes of this section, “volunteer coordinator” means an  
28 individual paid by a corporation qualified under Section 501(c)(3)  
29 of the Internal Revenue Code as a tax-exempt organization, to  
30 oversee or supervise volunteers. An individual may be considered  
31 a volunteer coordinator even if the individual performs some  
32 nonsupervisory work on a project alongside the volunteers, so long  
33 as the individual’s primary responsibility on the project is to  
34 oversee or supervise the volunteers rather than to perform  
35 nonsupervisory work.

36 (3) Any work performed by members of the California  
37 Conservation Corps or of Community Conservation Corps certified  
38 by the California Conservation Corps pursuant to Section 14507.5  
39 of the Public Resources Code.

1 ~~(b) This section shall apply retroactively to otherwise covered~~  
2 ~~work concluded on or after January 1, 2002, to the extent permitted~~  
3 ~~by law.~~

4 ~~(c) On or before January 1, 2011, the director shall submit a~~  
5 ~~written report to the Legislature that does both of the following:~~

6 ~~(1) Describes the number and the nature of complaints received~~  
7 ~~and investigations conducted involving the use of volunteers on~~  
8 ~~public works projects subject to this chapter, that are projects as~~  
9 ~~described in Section 21190 of the Public Resources Code.~~

10 ~~(2) Provides an estimate of each of the following as they relate~~  
11 ~~to public works projects that involve the acquisition, presentation,~~  
12 ~~or restoration of natural areas, including parks or ecological~~  
13 ~~reserves, or other public works projects that have one or more of~~  
14 ~~the purposes, as described in Section 21190 of the Public Resources~~  
15 ~~Code.~~

16 ~~(A) The number of hours per year that volunteers work on public~~  
17 ~~works projects.~~

18 ~~(B) The cost per year of public works projects, that are projects~~  
19 ~~as described in Section 21190 of the Public Resources Code, and~~  
20 ~~the percentage of work performed by volunteers.~~

21 ~~(C) The types of work done by volunteers on public works~~  
22 ~~projects, that are projects as described in Section 21190 of the~~  
23 ~~Public Resources Code.~~

24 ~~(d) The sum of one hundred thousand dollars (\$100,000) is~~  
25 ~~hereby appropriated from the Environmental License Plate Fund~~  
26 ~~for the purposes of funding the report required pursuant to~~  
27 ~~subdivision (c).~~

28 *SEC. 5. Section 1720.4 of the Labor Code, as amended by*  
29 *Section 2 of Chapter 219 of the Statutes of 2011, is amended to*  
30 *read:*

31 1720.4. (a) This chapter shall not apply to any of the following  
32 work:

33 (1) Any work performed by a volunteer. For purposes of this  
34 section, "volunteer" means an individual who performs work for  
35 civic, charitable, or humanitarian reasons for a public agency or  
36 corporation ~~qualified under Section 501(c)(3) exempt from federal~~  
37 ~~income tax as an organization described in Section 501(c)(3) of~~  
38 ~~the Internal Revenue Code as a tax-exempt organization,~~ without  
39 promise, expectation, or receipt of any compensation for work  
40 performed.

1 (A) An individual shall be considered a volunteer only when  
2 his or her services are offered freely and without pressure and  
3 coercion, direct or implied, from an employer.

4 (B) An individual may receive reasonable meals, lodging,  
5 transportation, and incidental expenses or nominal nonmonetary  
6 awards without losing volunteer status if, in the entire context of  
7 the situation, those benefits and payments are not a substitute form  
8 of compensation for work performed.

9 (C) An individual shall not be considered a volunteer if the  
10 person is otherwise employed for compensation at any time (i) in  
11 the construction, alteration, demolition, installation, *or* repair, ~~or~~  
12 ~~maintenance~~ work on the same project, or (ii) by a contractor, other  
13 than a corporation ~~qualified under Section 501(c)(3) exempt from~~  
14 ~~federal income tax as an organization described in Section~~  
15 ~~501(c)(3) of the Internal Revenue Code as a tax-exempt~~  
16 ~~organization~~, that receives payment to perform construction,  
17 alteration, demolition, installation, *or* repair, ~~or maintenance~~ work  
18 on the same project.

19 (2) Any work performed by a volunteer coordinator. For  
20 purposes of this section, “volunteer coordinator” means an  
21 individual paid by a corporation ~~qualified under Section 501(c)(3)~~  
22 ~~exempt from federal income tax as an organization described in~~  
23 ~~Section 501(c)(3) of the Internal Revenue Code as a tax-exempt~~  
24 ~~organization~~, to oversee or supervise volunteers. An individual  
25 may be considered a volunteer coordinator even if the individual  
26 performs some nonsupervisory work on a project alongside the  
27 volunteers, so long as the individual’s primary responsibility on  
28 the project is to oversee or supervise the volunteers rather than to  
29 perform nonsupervisory work.

30 (3) Any work performed by the California Conservation Corps  
31 or by Community Conservation Corps certified by the California  
32 Conservation Corps pursuant to Section 14507.5 of the Public  
33 Resources Code.

34 (b) This section shall apply retroactively to otherwise covered  
35 work concluded on or after January 1, 2002, to the extent permitted  
36 by law.

37 ~~(c) This section shall remain in effect only until January 1, 2017,~~  
38 ~~and as of that date is repealed, unless a later enacted statute, which~~  
39 ~~is enacted before January 1, 2017, deletes or extends that date.~~

40 SEC. 6. Section 1771 of the Labor Code is amended to read:

1 1771. (a) Except for *the execution of contracts on public*  
2 works projects of one hundred thousand dollars (\$100,000) or less,  
3 not less than the general prevailing rate of per diem wages for  
4 work of a similar character in the locality in which the public work  
5 is performed, and not less than the general prevailing rate of per  
6 diem wages for holiday and overtime work fixed as provided in  
7 this chapter, shall be paid to all workers employed *in the execution*  
8 *of a contract* on public works.

9 (b) This section is applicable only to work performed under  
10 contract, and is not applicable to work carried out by a public  
11 agency with its own forces.

12 ~~(c) This section is applicable to contracts let for maintenance~~  
13 ~~work.~~

14 ~~(d)~~

15 (c) This section does not apply to fabrication or prefabrication  
16 work that is done at permanent offsite facilities of contractors.

17 ~~(e)~~

18 (d) This section does not apply to a public work project of a  
19 local agency, as defined in Section 1771.1, that adopts a resolution  
20 or ordinance pursuant to that section, unless the payment of not  
21 less than the general prevailing rate of per diem wages is required  
22 under a state or federal grant.

23 SEC. 7. Section 1771.1 is added to the Labor Code, to read:

24 1771.1. The governing body of a local agency, whether charter  
25 or general law, may adopt, by the affirmative vote of a majority  
26 of its members, a resolution or ordinance providing that the wage  
27 requirements of Section 1771 shall apply to any public work of  
28 that local agency only if required by a state or federal grant. For  
29 purposes of this section, “local agency” means any city, county,  
30 city and county, special district, redevelopment agency, transit  
31 district, school district, community college district, water district,  
32 hospital district, or fire district, or any joint powers authority whose  
33 voting members consist entirely of any combination of any of those  
34 entities.

35 SEC. 8. Section 1771.15 is added to the Labor Code, to read:

36 1771.15. Notwithstanding any other law, workers employed  
37 on a hospital seismic retrofitting project are not required to be paid  
38 either the general prevailing rate of per diem wages, or the general  
39 prevailing rate of per diem wages for holiday and overtime work,

1 for work of a similar character in the locality in which the project  
2 is performed.

3 SEC. 9. Section 1772 of the Labor Code is amended to read:

4 1772. Workers, as defined in Section 1723, who are employed  
5 directly at the site of the work by contractors or subcontractors in  
6 the execution of any contract for public work are deemed to be  
7 employed upon public work.

8 SEC. 10. Section 1777.5 of the Labor Code is amended to read:

9 1777.5. (a) Nothing in this chapter shall prevent the  
10 employment of properly registered apprentices upon public works.

11 (b) Every apprentice employed upon public works shall be paid  
12 the prevailing rate of per diem wages for apprentices in the trade  
13 to which he or she is registered and shall be employed only at the  
14 work of the craft or trade to which he or she is registered.

15 (c) Only apprentices, as defined in Section 3077, who are in  
16 training under apprenticeship standards that have been approved  
17 by the Chief of the Division of Apprenticeship Standards and who  
18 are parties to written apprentice agreements under Chapter 4  
19 (commencing with Section 3070) of Division 3 are eligible to be  
20 employed at the apprentice wage rate on public works. The  
21 employment and training of each apprentice shall be in accordance  
22 with either of the following:

23 (1) The apprenticeship standards and apprentice agreements  
24 under which he or she is training.

25 (2) The rules and regulations of the California Apprenticeship  
26 Council.

27 (d) When the contractor to whom the contract is awarded by  
28 the state or any political subdivision, in performing any of the  
29 work under the contract, employs workers in any apprenticeable  
30 craft or trade, the contractor shall employ apprentices in at least  
31 the ratio set forth in this section and may apply to any  
32 apprenticeship program in the craft or trade that can provide  
33 apprentices to the site of the public work for a certificate approving  
34 the contractor under the apprenticeship standards for the  
35 employment and training of apprentices in the area or industry  
36 affected. However, the decision of the apprenticeship program to  
37 approve or deny a certificate shall be subject to review by the  
38 Administrator of Apprenticeship. The apprenticeship program or  
39 programs, upon approving the contractor, shall arrange for the  
40 dispatch of apprentices to the contractor. A contractor covered by

1 an apprenticeship program's standards shall not be required to  
2 submit any additional application in order to include additional  
3 public works contracts under that program. "Apprenticeable craft  
4 or trade," as used in this section, means a craft or trade determined  
5 as an apprenticeable occupation in accordance with rules and  
6 regulations prescribed by the California Apprenticeship Council.  
7 As used in this section, "contractor" includes any subcontractor  
8 under a contractor who performs any public works not excluded  
9 by subdivision (o).

10 (e) Prior to commencing work on a contract for public works,  
11 every contractor shall submit contract award information to an  
12 applicable apprenticeship program that can supply apprentices to  
13 the site of the public work. The information submitted shall include  
14 an estimate of journeyman hours to be performed under the  
15 contract, the number of apprentices proposed to be employed, and  
16 the approximate dates the apprentices would be employed. A copy  
17 of this information shall also be submitted to the awarding body  
18 if requested by the awarding body. Within 60 days after concluding  
19 work on the contract, each contractor and subcontractor shall  
20 submit to the awarding body, if requested, and to the apprenticeship  
21 program a verified statement of the journeyman and apprentice  
22 hours performed on the contract. The information under this  
23 subdivision shall be public. The apprenticeship programs shall  
24 retain this information for 12 months.

25 (f) The apprenticeship program that can supply apprentices to  
26 the area of the site of the public work shall ensure equal  
27 employment and affirmative action in apprenticeship for women  
28 and minorities.

29 (g) The ratio of work performed by apprentices to journeymen  
30 employed in a particular craft or trade on the public work may be  
31 no higher than the ratio stipulated in the apprenticeship standards  
32 under which the apprenticeship program operates where the  
33 contractor agrees to be bound by those standards, but, except as  
34 otherwise provided in this section, in no case shall the ratio be less  
35 than one hour of apprentice work for every five hours of  
36 journeyman work.

37 (h) This ratio of apprentice work to journeyman work shall  
38 apply during any day or portion of a day when any journeyman is  
39 employed at the jobsite and shall be computed on the basis of the  
40 hours worked during the day by journeymen so employed. Any

1 work performed by a journeyman in excess of eight hours per day  
2 or 40 hours per week shall not be used to calculate the ratio. The  
3 contractor shall employ apprentices for the number of hours  
4 computed as above before the end of the contract or, in the case  
5 of a subcontractor, before the end of the subcontract. However,  
6 the contractor shall endeavor, to the greatest extent possible, to  
7 employ apprentices during the same time period that the  
8 journeymen in the same craft or trade are employed at the jobsite.  
9 Where an hourly apprenticeship ratio is not feasible for a particular  
10 craft or trade, the Chief of the Division of Apprenticeship  
11 Standards, upon application of an apprenticeship program, may  
12 order a minimum ratio of not less than one apprentice for each five  
13 journeymen in a craft or trade classification.

14 (i) A contractor covered by this section that has agreed to be  
15 covered by an apprenticeship program's standards upon the  
16 issuance of the approval certificate, or that has been previously  
17 approved for an apprenticeship program in the craft or trade, shall  
18 employ the number of apprentices or the ratio of apprentices to  
19 journeymen stipulated in the applicable apprenticeship standards,  
20 but in no event less than the 1-to-5 ratio required by subdivision  
21 (g).

22 (j) Upon proper showing by a contractor that he or she employs  
23 apprentices in a particular craft or trade in the state on all of his  
24 or her contracts on an annual average of not less than one hour of  
25 apprentice work for every five hours of labor performed by  
26 journeymen, the Chief of the Division of Apprenticeship Standards  
27 may grant a certificate exempting the contractor from the 1-to-5  
28 hourly ratio, as set forth in this section for that craft or trade.

29 (k) An apprenticeship program has the discretion to grant to a  
30 participating contractor or contractor association a certificate,  
31 which shall be subject to the approval of the Administrator of  
32 Apprenticeship, exempting the contractor from the 1-to-5 ratio set  
33 forth in this section when it finds that any one of the following  
34 conditions is met:

35 (1) Unemployment for the previous three-month period in the  
36 area exceeds an average of 15 percent.

37 (2) The number of apprentices in training in the area exceeds a  
38 ratio of 1 to 5.

39 (3) There is a showing that the apprenticeable craft or trade is  
40 replacing at least one-thirtieth of its journeymen annually through

1 apprenticeship training, either on a statewide basis or on a local  
2 basis.

3 (4) Assignment of an apprentice to any work performed under  
4 a public works contract would create a condition that would  
5 jeopardize his or her life or the life, safety, or property of fellow  
6 employees or the public at large, or the specific task to which the  
7 apprentice is to be assigned is of a nature that training cannot be  
8 provided by a journeyman.

9 (l) When an exemption is granted pursuant to subdivision (k)  
10 to an organization that represents contractors in a specific trade  
11 from the 1-to-5 ratio on a local or statewide basis, the member  
12 contractors shall not be required to submit individual applications  
13 for approval to local joint apprenticeship committees, if they are  
14 already covered by the local apprenticeship standards.

15 (m) (1) A contractor to whom a contract is awarded, who, in  
16 performing any of the work under the contract, employs  
17 journeymen or apprentices in any apprenticeable craft or trade  
18 shall contribute to the California Apprenticeship Council the same  
19 amount that the director determines is the prevailing amount of  
20 apprenticeship training contributions in the area of the public works  
21 site. A contractor may take as a credit for payments to the council  
22 any amounts paid by the contractor to an approved apprenticeship  
23 program that can supply apprentices to the site of the public works  
24 project. The contractor may add the amount of the contributions  
25 in computing his or her bid for the contract.

26 (2) At the conclusion of the 2002–03 fiscal year and each fiscal  
27 year thereafter, the California Apprenticeship Council shall  
28 distribute training contributions received by the council under this  
29 subdivision, less the expenses of the Division of Apprenticeship  
30 Standards for administering this subdivision, by making grants to  
31 approved apprenticeship programs for the purpose of training  
32 apprentices. The funds shall be distributed as follows:

33 (A) If there is an approved multiemployer apprenticeship  
34 program serving the same craft or trade and geographic area for  
35 which the training contributions were made to the council, a grant  
36 to that program shall be made.

37 (B) If there are two or more approved multiemployer  
38 apprenticeship programs serving the same craft or trade and  
39 geographic area for which the training contributions were made

1 to the council, the grant shall be divided among those programs  
2 based on the number of apprentices registered in each program.

3 (C) All training contributions not distributed under  
4 subparagraphs (A) and (B) shall be used to defray the future  
5 expenses of the Division of Apprenticeship Standards.

6 (3) All training contributions received pursuant to this  
7 subdivision shall be deposited in the Apprenticeship Training  
8 Contribution Fund, which is hereby created in the State Treasury.  
9 Upon appropriation by the Legislature, all money in the  
10 Apprenticeship Training Contribution Fund shall be used for the  
11 purpose of carrying out this subdivision and to pay the expenses  
12 of the Division of Apprenticeship Standards.

13 (n) The body awarding the contract shall cause to be inserted  
14 in the contract stipulations to effectuate this section. The  
15 stipulations shall fix the responsibility of compliance with this  
16 section for all apprenticeable occupations with the prime contractor.

17 (o) This section does not apply to contracts of general  
18 contractors or to contracts of specialty contractors not bidding for  
19 work through a general or prime contractor when the contracts of  
20 general contractors or those specialty contractors are less than one  
21 hundred thousand dollars (\$100,000).

22 (p) All decisions of an apprenticeship program under this section  
23 are subject to Section 3081.

24 SEC. 11. No reimbursement is required by this act pursuant  
25 to Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the penalty  
29 for a crime or infraction, within the meaning of Section 17556 of  
30 the Government Code, or changes the definition of a crime within  
31 the meaning of Section 6 of Article XIII B of the California  
32 Constitution.